

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DR. MORGAN REYNOLDS on behalf  
of the UNITED STATES OF AMERICA

Plaintiff,

vs.

SCIENCE APPLICATIONS  
INTERNATIONAL CORP.; APPLIED  
RESEARCH ASSOCIATES, INC.;  
BOEING, NuSTATS; COMPUTER  
AIDED ENGINEERING ASSOCIATES,  
INC.; DATASOURCE, INC.;  
GEOSTAATS, INC.; GILSANZ  
MURRAY STEFICEK LLP; HUGHES  
ASSOCIATES, INC.; AJMAL ABBASI;  
EDUARDO KAUSEL; DAVID PARKS;  
DAVID SHARP; DANIELE VENEZANO;  
JOSEF VAN DYCK; KASPAR WILLIAM;  
ROLF JENSEN & ASSOCIATES, INC.;  
ROSENWASSER/GROSSMAN  
CONSULTING ENGINEERS, P.C.;  
SIMPSON GUMPERTZ & HEGER, INC.;  
S. K. GHOSH ASSOCIATES, INC.;  
SKIDMORE, OWINGS & MERRILL,  
LLP; TENG & ASSOCIATES, INC.;  
UNDERWRITERS LABORATORIES,  
INC.; WISS, JANNEY, ELSTNER  
ASSOCIATES, INC.; AMERICAN  
AIRLINES; SILVERSTEIN PROPERTIES;  
and UNITED AIRLINES,

Defendants.

**DECLARATION OF SEAN T.  
O'LEARY IN SUPPORT OF  
HUGHES ASSOCIATES, INC.'S  
MOTION TO DISMISS  
PLAINTIFF/RELATOR'S COMPLAINT**

Case No. 07CV4612

**ECF CASE**

SEAN T. O'LEARY, an attorney licensed to practice and admitted to practice in and before the Courts of the State of New York and the Southern District of New York, declares the following pursuant to 28 U.S.C. §1746:

1. I am associated with the law firm of Wormser, Kiely, Galef & Jacobs LLP, attorneys for the Defendant, Hughes Associates, Inc. ("Hughes").

2. I respectfully submit this Declaration in support of Hughes' Motion to Dismiss Plaintiff/Relator's Complaint for Lack of Subject Matter Jurisdiction, for Failure to Plead Fraud with Particularity, and for Lack of Standing pursuant to Fed. R. Civ. P. 12(b)(1) and 9(b) and granting Hughes such other and further relief as this Court may deem just and proper.

3. In support of its Motion, Hughes hereby incorporates, in its entirety, and relies upon the Memorandum of Law of the Defendant, Applied Research Associates, Inc., which is dated October 8, 2007, was filed on October 9, 2007, and is docketed as item number 39 on this Court's docket for this action ("Applied Research's Memorandum of Law").

4. For the sake of clarity and good order, a true copy of Applied Research's Memorandum of Law is annexed hereto as Exhibit A.

5. In particular, Hughes underscores the facts that: (i) for the reasons outlined in Section II of Applied Research's Memorandum of Law, this Court lacks subject matter jurisdiction over Relator's FCA claims and, therefore, Causes of Action One, Two and Three must be dismissed; (ii) for the reasons outlined in Section III of Applied Research's Memorandum of Law, Relator fails to plead fraud with particularity under Rule 9(b); and (iii) for the reasons outlined in Section IV of Applied Research's Motion to Dismiss, Relator lacks

standing to assert common-law claims on behalf of the Government and Causes of Action Four, Five, Six and Seven must be dismissed.

6. Accordingly, Hughes respectfully requests that this Court dismiss the Plaintiff/Relator's Complaint in its entirety and grant Hughes such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
October 9, 2007

/s/ Sean T. O'Leary  
Sean T. O'Leary (SO4542)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of October 2007, I electronically filed the foregoing **DECLARATION OF SEAN T. O'LEARY IN SUPPORT OF HUGHES ASSOCIATES, INC.'S MOTION TO DISMISS PLAINTIFF/RELATOR'S COMPLAINT** with the Clerk of Court using the CM/ECF system which will send notification of filing to the following e-mail addresses:

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